IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

CSX TRANSPORTATION, INC.

500 Water Street

Jacksonville, FL 32202-4423 CIVIL ACTION

> Plaintiff CASE NO. 05-139 Erie

Judge Sean J. McLaughlin v.

PORT ERIE PLASTICS, INC.

909 Troupe Road

Harborcreek, PA 16421

Defendant.

NOTICE OF APPEAL

Notice is hereby given that CSX Transportation Company ("CSX"), the plaintiff in the above named case, hereby appeals the Order entering Judgment as a matter of law on the 29th day of September, 2006 (Docket No. 39) in favor of Port Erie Plastics, Inc., and against CSX with respect to the CSX demurrage claim.

Respectfully submitted,

KEENAN COHEN & HOWARD P.C.

/s/ Charles L. Howard By:

Charles L. Howard

Jeffrey D. Cohen

Charles L. Howard

One Commerce Square

2005 Market Street, Suite 3520

Philadelphia, PA 19103

Telephone: (215) 609-1110

Facsimile: (215) 609-1117

Attorneys for Plaintiff

CSX Transportation Company

Dated: October 23, 2006

CERTIFICATE OF SERVICE

I, Charles L. Howard, hereby certify that on this 23rd day of October, 2006, I caused a true and correct copy of the foregoing **Notice of Appeal** to be made available to the following attorney for the defendant identified below *via* Electronic Case Filing:

Richard J. Parks, Esquire MacDonald, Illig, Jones & Britton LLP 100 State Street, Suite 700 Erie, Pennsylvania 16507-1459

/s/ Charles L. Howard